

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

MARK A. JENKINS,)	
)	
Plaintiff,)	
v.)	Case No. 1:13-cv-0099-TWP-MJD
)	
SUPERINTENDENT WENDY)	
KNIGHT, et al.,)	
)	
Defendants.)	

ENTRY

This action was dismissed without prejudice on December 2, 2013, when the defendants' motion for summary judgment was granted on the basis that the plaintiff failed to exhaust his available administrative remedies.

On December 16, 2013, the plaintiff filed a motion for relief from judgment pursuant to Rule 60(b)(1) of the *Federal Rules of Civil Procedure*. Rule 60(b)(1) provides that the Court may relieve a party from a final judgment for reasons of mistake, inadvertence, surprise, or excusable neglect.

The plaintiff argues that the administrative procedures at the prison are non-existent when money damages are sought. More specifically, he contends that the prison has a policy that a grievance may be returned to the offender if it "concerns a matter beyond the power of the Department and its contractors to remedy." As pointed out by the defendants, however, this language does not pertain to grievances seeking money damages, and, in fact, the plaintiff has exhausted the grievance process regarding other complaints in which he sought money damages. The issues of monetary relief and the availability of administrative remedies were discussed and decided in the defendants' favor in the ruling on the motion for summary judgment. "Exhaustion

is necessary even if the prisoner is requesting relief that the relevant administrative review board has no power to grant, such as monetary damages, or if the prisoner believes that exhaustion is futile.” *Dole v. Chandler*, 438 F.3d 804, 808-09 (7th Cir. 2006).

A Rule 60(b) motion does not provide a vehicle for simply rehashing the issues that have already been resolved and taking a second bite at the apple. The plaintiff has not shown that any of the Rule 60(b)(1) grounds for relief are present. Accordingly, his Rule 60(b)(1) motion for relief from judgment [dkt. no. 39] is **denied**.

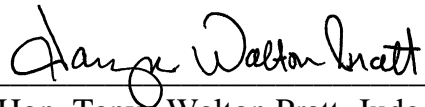
IT IS SO ORDERED.

Date: 02/26/2014

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Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana